

108TH CONGRESS
1ST SESSION

S. 176

To amend title XVIII of the Social Security Act to establish a program to provide for medicare reimbursement for health care services provided to certain medicare-eligible veterans in facilities of the Department of Veterans Affairs.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2003

Mr. DAYTON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to establish a program to provide for medicare reimbursement for health care services provided to certain medicare-eligible veterans in facilities of the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Health Care
5 Reimbursement Act of 2003”.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE REIMBURSEMENT**
2 **PROGRAM FOR VETERANS.**

3 (a) IN GENERAL.—Title XVIII of the Social Security
4 Act (42 U.S.C. 1395 et seq.) is amended by adding at
5 the end the following new section:

6 “MEDICARE REIMBURSEMENT PROGRAM FOR VETERANS

7 “SEC. 1897. (a) DEFINITIONS.—In this section:

8 “(1) ADMINISTERING SECRETARIES.—The term
9 ‘administering Secretaries’ means the Secretary and
10 the Secretary of Veterans Affairs acting jointly.

11 “(2) MEDICARE HEALTH CARE SERVICES.—The
12 term ‘medicare health care services’ means items or
13 services covered under part A or part B.

14 “(3) PROGRAM.—The term ‘program’ means
15 the program carried out under this section.

16 “(4) PROGRAM SITE.—The term ‘program site’
17 means a Veterans Affairs medical facility that pro-
18 vides, alone or in conjunction with other facilities
19 under the jurisdiction of the Secretary of Veterans
20 Affairs and affiliated public or private entities—

21 “(A) in the case of a coordinated care
22 health plan, the health care benefits prescribed
23 in subsection (c)(3) to targeted medicare-eli-
24 ble veterans residing within the service area;
25 and

1 “(B) in the case of health care benefits
2 being provided on a fee-for-service basis, the
3 health care benefits prescribed in subsection
4 (d)(2) to targeted medicare-eligible veterans.

5 “(5) TARGETED MEDICARE-ELIGIBLE VET-
6 ERAN.—The term ‘targeted medicare-eligible vet-
7 eran’ means an individual who—

8 “(A) is a veteran (as defined in section
9 101 of title 38, United States Code) who is en-
10 rolled in the annual patient enrollment system
11 under paragraph (4), (5), (6), or (7) of section
12 1705(a) of title 38, United States Code;

13 “(B) has attained age 65;

14 “(C) is entitled to, or enrolled for, benefits
15 under part A; and

16 “(D) is enrolled for benefits under part B.

17 “(6) TRUST FUNDS.—The term ‘trust funds’
18 means the Federal Hospital Insurance Trust Fund
19 established in section 1817 and the Federal Supple-
20 mentary Medical Insurance Trust Fund established
21 in section 1841.

22 “(7) VETERANS AFFAIRS MEDICAL FACILITY.—
23 The term ‘Veterans Affairs medical facility’ means a
24 medical facility as defined in section 8101 of title
25 38, United States Code.

1 “(b) PROGRAM.—

2 “(1) IN GENERAL.—

3 “(A) ESTABLISHMENT.—The admin-
4 istering Secretaries shall establish a program
5 (under agreements entered into by the admin-
6 istering Secretaries) under which the Secretary
7 shall reimburse the Secretary of Veterans Af-
8 fairs, from the trust funds, for medicare health
9 care services furnished to targeted medicare-eli-
10 gible veterans.

11 “(B) AGREEMENT.—Any agreement en-
12 tered into under this paragraph shall include at
13 a minimum—

14 “(i) a detailed description of the
15 health care benefits to be provided to the
16 participants of the program;

17 “(ii) a description of the eligibility
18 rules for participation in the program, any
19 premiums established for a coordinated
20 care health plan, and any cost-sharing ar-
21 rangements;

22 “(iii) a description of how the pro-
23 gram will satisfy the requirements under
24 this title;

1 “(iv) a description of the sites selected
2 under paragraph (2) and which model such
3 site will operate under;

4 “(v) a description of how reimburse-
5 ment requirements under subsection (i),
6 maintenance of effort requirements under
7 subsection (j), and the annual reconcili-
8 ation under subsection (k) will be imple-
9 mented in the program;

10 “(vi) a statement that the Secretary
11 shall have access to all data of the Depart-
12 ment of Veterans Affairs that the Sec-
13 retary determines is necessary to conduct
14 independent estimates and audits of the
15 maintenance of effort requirement under
16 subsection (j), the annual reconciliation
17 under subsection (k), and related matters
18 required under the program;

19 “(vii) a statement that the Comp-
20 troller General of the United States shall
21 have access to all data of the Department
22 of Veterans Affairs that the Comptroller
23 General determines is necessary to carry
24 out the reporting requirements under sub-
25 sections (k) or (l);

1 “(viii) a description of any require-
2 ment that the Secretary waives pursuant
3 to subsection (c)(4) or (d)(4); and

4 “(ix) a certification, provided after re-
5 view by the administering Secretaries, that
6 any facility or entity described in sub-
7 section (a)(4) that is receiving payments
8 by reason of the program has sufficient—

9 “(I) resources and expertise to
10 provide, consistent with payment re-
11 quirements under subsection (i), the
12 health care benefits required to be
13 provided to beneficiaries under the
14 program (as established under sub-
15 sections (c)(3) and (d)(2)); and

16 “(II) information and billing sys-
17 tems in place to ensure—

18 “(aa) accurate and timely
19 submission of claims for health
20 care benefits to the Secretary;
21 and

22 “(bb) that providers of
23 health care services that are not
24 affiliated with the Department of
25 Veterans Affairs are reimbursed

1 by the Secretary of Veterans Af-
2 fairs in a timely and accurate
3 manner.

4 “(C) SEPARATE AGREEMENTS FOR CO-
5 ORDINATED CARE AND FEE-FOR-SERVICE.—The
6 administering Secretaries shall enter into sepa-
7 rate agreements with regard to program sites
8 operating under a coordinated care health plan
9 model and a fee-for-service model, and shall in-
10 clude in each agreement only such information
11 that is applicable to that model.

12 “(2) LOCATION OF PROGRAM SITES.—The pro-
13 gram shall be conducted at any program site that is
14 designated by the Secretary of Veterans Affairs.

15 “(3) RESTRICTIONS.—

16 “(A) ONLY 1 MODEL AT A SITE.—A pro-
17 gram site may not operate under both a coordi-
18 nated care health plan model and a fee-for-serv-
19 ice model.

20 “(B) RESTRICTION ON NEW OR EXPANDED
21 FACILITIES.—No new Veterans Affairs medical
22 facilities may be built or expanded with funds
23 from the program.

24 “(4) COMMENCEMENT OF PROJECT.—The ad-
25 ministering Secretaries shall commence the dem-

1 onstration project not later than 6 months after the
2 date of enactment of the Veterans Health Care Re-
3 imbursement Act of 2003.

4 “(5) TERMINATION.—If determined appro-
5 priate, the Secretary of Veterans Affairs may termi-
6 nate the program.

7 “(6) REPORT.—At least 30 days prior to the
8 commencement of the program (for both the coordi-
9 nated care health plan model and the fee-for-service
10 model), the administering Secretaries shall submit a
11 copy of any agreement entered into under paragraph
12 (1) to the committees of jurisdiction of Congress.

13 “(c) COORDINATED CARE HEALTH PLAN MODEL.—

14 “(1) IN GENERAL.—The Secretary of Veterans
15 Affairs shall establish and operate coordinated care
16 health plans in order to provide the health care ben-
17 efits prescribed in paragraph (3) to targeted medi-
18 care-eligible veterans enrolled in the program under
19 this section consistent with the Medicare+Choice
20 program under part C.

21 “(2) OPERATION BY OR THROUGH A PROGRAM
22 SITE.—Any coordinated care health plan established
23 in accordance with paragraph (1) shall be operated
24 by or through a program site.

25 “(3) HEALTH CARE BENEFITS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the Secretary of Veterans Affairs
3 shall prescribe the health care benefits to be
4 provided to a targeted medicare-eligible veteran
5 enrolled in a coordinated care health plan under
6 the program.

7 “(B) MINIMUM BENEFITS.—The benefits
8 prescribed by the Secretary of Veterans Affairs
9 pursuant to subparagraph (A) shall include at
10 least all medicare health care services that are
11 required to be provided by a Medicare+Choice
12 organization under part C.

13 “(4) MEDICARE REQUIREMENTS.—

14 “(A) IN GENERAL.—

15 “(i) REQUIREMENTS.—Except as pro-
16 vided under clause (ii), a coordinated care
17 health plan operating under the program
18 shall meet all requirements applicable to a
19 Medicare+Choice plan under part C and
20 regulations pertaining thereto, and any
21 other requirements for receiving payments
22 under this title, except that the prohibition
23 of payments to Federal providers of serv-
24 ices under sections 1814(c) and 1835(d),



1 “(iii) Information provided to bene-
2 ficiaries.

3 “(iv) Cost-sharing limitations.

4 “(v) Appeal and grievance procedures.

5 “(vi) Provider participation.

6 “(vii) Access to services.

7 “(viii) Quality assurance and external
8 review.

9 “(ix) Advance directives.

10 “(x) Other areas of beneficiary protec-
11 tions that the Secretary determines are ap-
12 plicable to a coordinated care health plan
13 operating under the program under this
14 section.

15 “(d) FEE-FOR-SERVICE MODEL.—

16 “(1) IN GENERAL.—The Secretary of Veterans
17 Affairs shall establish and operate a program site in
18 order to provide, on a fee-for-service basis, the medi-
19 care health care services prescribed in paragraph (2)
20 to targeted medicare-eligible veterans under the pro-
21 gram in a manner consistent with this title.

22 “(2) HEALTH CARE BENEFITS.—The admin-
23 istering Secretaries shall prescribe the medicare
24 health care services available to a targeted medicare-

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1 “(f) CREDITING OF PAYMENTS.—A payment received
2 by the Secretary of Veterans Affairs under the program
3 shall be credited to the appropriation of the Department
4 of Veterans Affairs for Medical Care. Amounts credited
5 to that appropriation for services furnished by a program
6 site shall be credited to amounts in the appropriation that
7 are available for the Veterans Integrated Services Network
8 (VISN) in which the program site is located. Amounts so
9 credited for a Veterans Integrated Services Network shall
10 be available for the furnishing of health care and services
11 by any Veterans Affairs medical facility in the Veterans
12 Integrated Services Network. Amounts so credited shall
13 be available in accordance with the preceding sentence
14 without fiscal year limitation.

15 “(g) WAIVER OF CERTAIN VA REQUIREMENTS.—
16 Notwithstanding any other provision of law, the Secretary
17 of Veterans Affairs shall furnish medicare health care
18 services to targeted medicare-eligible veterans pursuant to
19 the program.

20 “(h) INSPECTOR GENERAL.—Nothing in any agree-
21 ment entered into under subsection (b)(1) shall limit the
22 Inspector General of the Department of Health and
23 Human Services from investigating any matters regarding
24 the expenditure of funds under this title for the program,

1 including compliance with the provisions of this title and
 2 all other relevant laws.

3 “(i) PAYMENTS BASED ON REGULAR MEDICARE
 4 PAYMENT RATES.—

5 “(1) AMOUNT.—Subject to the succeeding pro-
 6 visions of this subsection and subsection (k), the
 7 Secretary shall reimburse the Secretary of Veterans
 8 Affairs for health care benefits provided under the
 9 program at the following rates:

10 “(A) COORDINATED CARE HEALTH
 11 PLANS.—In the case of health care benefits pro-
 12 vided under the program to a targeted medi-
 13 care-eligible veteran enrolled in a coordinated
 14 care health plan, at a rate equal to 95 percent
 15 of the amount paid to a Medicare+Choice orga-
 16 nization under part C for an enrollee in a
 17 Medicare+Choice plan offered by such organi-
 18 zation (as risk adjusted under section
 19 1853(a)(1)(B)).

20 “(B) FEE-FOR-SERVICE MODEL.—In the
 21 case of a medicare health care service pre-
 22 scribed in subsection (d)(2) that is provided at
 23 a program site operating under a fee-for-service
 24 model, at a rate equal to 95 percent of the
 25 amounts that otherwise would be payable under



1 such services provided to applicable veterans during
2 fiscal year 1998.

3 “(2) APPLICABLE VETERAN DEFINED.—For
4 purposes of paragraph (1), the term ‘applicable vet-
5 eran’ means an individual who—

6 “(A) is a veteran (as defined in section
7 101 of title 38, United States Code) who is eli-
8 gible for care and services under section
9 1710(a)(3) of title 38, United States Code;

10 “(B) has attained age 65; and

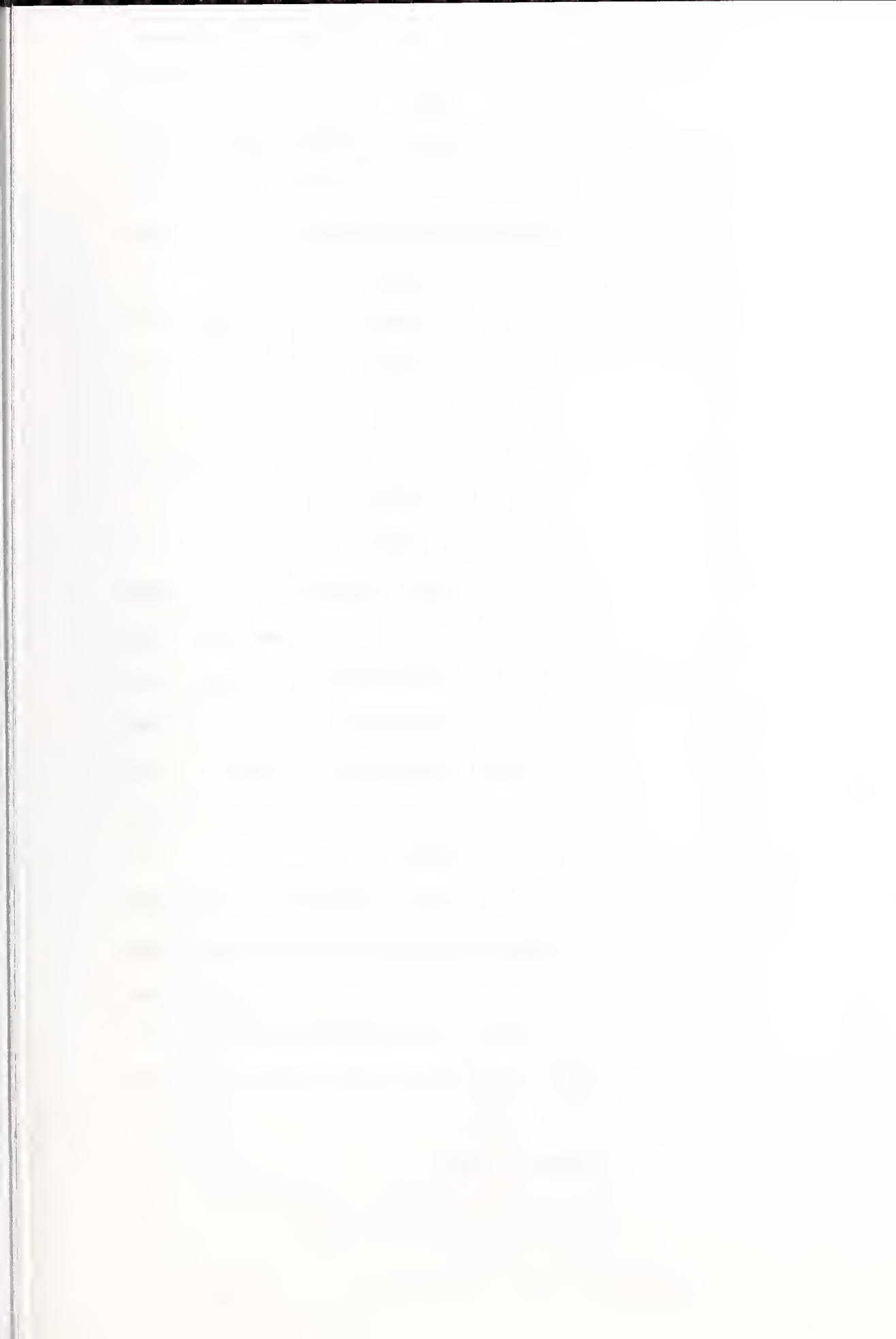
11 “(C) is entitled to, or enrolled for, benefits
12 under part A.

13 “(3) RULE OF CONSTRUCTION.—The criteria
14 for eligibility for health care benefits furnished to
15 veterans by the Secretary of Veterans Affairs is es-
16 tablished under chapter 17 of title 38, United States
17 Code, and nothing in this section shall be construed
18 to add additional criteria for such eligibility.

19 “(k) ANNUAL RECONCILIATION TO ASSURE NO IN-
20 CREASE IN COSTS TO MEDICARE PROGRAM.—

21 “(1) MONITORING EFFECT OF PROGRAM ON
22 COSTS TO MEDICARE PROGRAM.—

23 “(A) IN GENERAL.—The administering
24 Secretaries, in consultation with the Comp-
25 troller General of the United States, shall close-



1 (or are expected to increase) during a fiscal
2 year because of the program under this section,
3 the administering Secretaries shall take such
4 steps as may be needed—

5 “(i) to recoup for the medicare pro-
6 gram the amount of such increase in ex-
7 penditures; and

8 “(ii) to prevent any such increase in
9 any succeeding fiscal year.

10 “(B) STEPS.—Such steps—

11 “(i) under subparagraph (A)(i), shall
12 include payment of an amount equal to the
13 amount of such increased expenditures by
14 the Secretary of Veterans Affairs from the
15 current appropriation for Medical Care of
16 the Department of Veterans Affairs to the
17 trust funds; and

18 “(ii) under subparagraph (A)(ii), shall
19 include suspending or terminating the pro-
20 gram (in whole or in part) or reducing the
21 amount of payment under subsection (i).

22 “(1) GAO EVALUATION AND ADDITIONAL RE-
23 PORTS.—

24 “(1) EVALUATION.—

1 “(A) IN GENERAL.—The Comptroller Gen-
2 eral of the United States shall conduct an eval-
3 uation of the program, including—

4 “(i) an evaluation of program sites
5 operating under a coordinated care health
6 plan model and under a fee-for-service
7 model; and

8 “(ii) where appropriate, a comparison
9 of such models.

10 “(B) CONTENTS.—Any evaluation con-
11 ducted under subparagraph (A) shall include an
12 assessment, based on the agreements entered
13 into under subsection (b)(1), of the following:

14 “(i) Any savings or costs to the medi-
15 care program under this title resulting
16 from the program.

17 “(ii) Compliance of participating pro-
18 gram sites with applicable measures of
19 quality of care, compared to such compli-
20 ance by other entities that participate in
21 the medicare program and are not Vet-
22 erans Affairs medical facilities.

23 “(iii) Compliance by the Department
24 of Veterans Affairs with the requirements
25 under this title.

1 “(iv) The number of targeted medi-
2 care-eligible veterans opting to receive
3 health care benefits under the program in-
4 stead of receiving such benefits through
5 another health insurance plan (including
6 health care benefits under this title).

7 “(v) A comparison of the costs of par-
8 ticipation of the program sites in the pro-
9 gram with the reimbursements for health
10 care services provided by such sites.

11 “(vi) Any impact the program has on
12 the access to health care services, or the
13 quality of such services, for—

14 “(I) targeted medicare-eligible
15 veterans receiving health care benefits
16 under the program; and

17 “(II) veterans (including targeted
18 medicare-eligible veterans) that are
19 not receiving health care benefits
20 under the program.

21 “(vii) Any impact the program has on
22 private health care providers and on bene-
23 ficiaries under this title that are not receiv-
24 ing health care benefits under the pro-
25 gram.

1 “(viii) Any effect that the program
2 has on the enrollment in Medicare+Choice
3 plans offered by Medicare+Choice organi-
4 zations under part C in the established
5 program site areas.

6 “(ix) Any impact that the exclusion of
7 the amounts described in subsection (i)(2)
8 from the reimbursement amounts under
9 the program has on the Department of
10 Veterans Affairs or on targeted medicare-
11 eligible veterans.

12 “(x) A description of the difficulties
13 (if any) experienced by—

14 “(I) the Department of Veterans
15 Affairs in managing the program; or

16 “(II) the Department of Health
17 and Human Services in overseeing the
18 program.

19 “(xi) Any additional elements speci-
20 fied in the agreements entered into under
21 subsection (b)(1).

22 “(xii) Any additional elements that
23 the Comptroller General of the United
24 States determines are appropriate to as-
25 sess regarding the program.

1 “(2) BIENNIAL REPORTS.—Not later than the
 2 date that is the 2-year anniversary of the commence-
 3 ment of the program and biennially thereafter (for
 4 as long as the program is being conducted), the
 5 Comptroller General of the United States shall sub-
 6 mit reports on the evaluation conducted under sub-
 7 paragraph (A) to the administering Secretaries and
 8 to the committees of jurisdiction of Congress.

9 “(m) REPORTS BY ADMINISTERING SECRETARIES ON
 10 PROGRAM OPERATION AND CHANGES.—

11 “(1) ANNUAL REPORT.—The administering
 12 Secretaries shall submit to the committees of juris-
 13 diction of Congress an annual report on the program
 14 and its impact on costs and the provision of health
 15 services under this title and title 38, United States
 16 Code.

17 “(2) REPORT BEFORE MAKING CERTAIN PRO-
 18 GRAM CHANGES.—

19 “(A) IN GENERAL.—The administering
 20 Secretaries shall submit to the committees of
 21 jurisdiction of Congress a report at least 60
 22 days before—

23 “(i) adding or changing the designa-
 24 tion of a site under subsection (b)(2);

1 “(ii) waiving any requirement under
2 subsection (c)(4) or (d)(4) that was not de-
3 scribed in any agreement under subsection
4 (b)(1) or previous report under this sub-
5 section;

6 “(iii) making other significant
7 changes in the operation of the program;
8 or

9 “(iv) terminating the agreement under
10 subsection (b)(5).

11 “(B) EXPLANATION.—Each report under
12 subparagraph (A) shall include justifications for
13 the changes or termination to which the report
14 refers.”.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that the amount of funds appropriated for the De-
17 partment of Veterans Affairs for Medical Care in any fis-
18 cal year beginning after the date of enactment of this Act
19 should not be reduced because of the implementation of
20 the Medicare Reimbursement Program for Veterans under
21 section 1897 of the Social Security Act (as added by sub-
22 section (a)).

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